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Hermès of Paris, Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HERMÈS OF PARIS, INC.,	:	
	:	Civil Action No. 1:16-cv-06255 (CM)
Petitioner,	:	
	:	Electronically Filed
- against -	:	
	:	
MATTHEW SWAIN,	:	
	:	
Respondent.	:	
-----	X	

**DECLARATION OF LAWRENCE R. SANDAK
IN SUPPORT OF PETITION TO CONFIRM ARBITRATION AWARD
AND ENJOIN RESPONDENT**

I, LAWRENCE R. SANDAK, make this Declaration pursuant to 28 U.S.C. § 1746. I hereby declare as follows:

1. I am an attorney-at-law licensed to practice in the State of New York and a member of the firm of Proskauer Rose LLP, attorneys for Petitioner Hermès of Paris, Inc. (“Hermès” or “Petitioner”) in the above-captioned matter. As such, I am familiar with the facts and circumstances surrounding this proceeding and the facts set forth herein.

2. I submit this Declaration in Support of Hermès’ Petition to Confirm Arbitration Award and Enjoin Respondent Matthew Swain (“Swain” or “Respondent”).

3. Attached hereto as Exhibit A is a true and correct copy of the December 10, 2019 American Arbitration Association (“AAA”) Arbitration Award issued by Arbitrator Barbara Stiller dismissing the case captioned *Matthew Swain v. Hermès of Paris, Inc. and Lorenzo Bautista* and bearing AAA case number 01-19-0001-3018.

4. Attached hereto as Exhibit B is a true and correct copy of the parties’ Dispute Resolution Procedure Agreement, dated August 10, 2015, and signed by Respondent on August 28, 2015

5. Attached hereto as Exhibit C is a true and correct copy of e-mail correspondence between Gail Wheeler, Vice President, Legal Counsel of Hermès, and Christopher W. Hager, Esq, counsel for Swain, dated July 19, 2016.

6. Attached hereto as Exhibit D is a true and correct copy of the AAA’s July 26, 2016 notice acknowledging receipt of Hermès’ July 19, 2016 request for mediation.

7. Attached hereto as Exhibit E is a true and correct copy of the New Jersey state court complaint Swain filed on July 19, 2016 entitled, *Matthew Swain v. Hermès of Paris; Lorenzo Bautista, Individually; ABC Corporation(s) 1-5; and JOHN and/or JANE DOE(S) 1-5* and bearing case number L-4996-16.

8. Attached hereto as Exhibit F is a true and correct copy of the Petition to Compel Arbitration Hermès filed with this Court on August 5, 2016 and bearing docket number 1:16-cv-06255 (CM).

9. Attached hereto as Exhibit G is a true and correct copy of the Decision and Order of Chief Judge Colleen McMahon granting Hermès’ Petition to Compel Arbitration, dated September 13, 2016.

10. Attached hereto as Exhibit H is a true and correct copy of Swain's Notice of Appeal to the United States Court of Appeals for the Second Circuit, dated September 14, 2016.

11. Attached hereto as Exhibit I is a true and correct copy of the November 18, 2016 Decision and Order of Judge Francine Schott of the New Jersey Superior Court on Hermès' motion to dismiss Swain's New Jersey state court complaint.

12. Attached hereto as Exhibit J is a true and correct copy of the November 18, 2016 transcript of the oral argument held before Judge Schott on Hermès' motion to dismiss the New Jersey state court complaint.

13. Attached hereto as Exhibit K is a true and correct copy of the Second Circuit's Judgment affirming the District Court's order compelling arbitration, dated August 14, 2017.

14. Attached hereto as Exhibit L is a true and correct copy of the March 9, 2018 motion to reinstate Swain filed in New Jersey state court with respect to his previously dismissed New Jersey state court complaint.

15. Attached hereto as Exhibit M is a true and correct copy of the May 25, 2018 Decision and Order of Judge Keith E. Lynott of the New Jersey Superior Court, denying Swain's motion to reinstate his New Jersey state court complaint.

16. Attached hereto as Exhibit N is a true and correct copy of the April 23, 2019 decision of the New Jersey Appellate Division affirming the lower court's denial of Swain's motion to reinstate.

17. Attached hereto as Exhibit O is a true and correct copy of the demand for arbitration Swain submitted to the AAA on April 26, 2019.

18. Attached hereto as Exhibit P is a true and correct copy of the June 3, 2019 Answer Hermès submitted to the AAA in response to Swain's arbitration demand.

19. Attached hereto as Exhibit Q is a true and correct copy of the August 5, 2019 motion to dismiss Hermès' submitted in the AAA arbitration.

20. Attached hereto as Exhibit R is a true and correct copy of the October 1, 2019 decision and order of Arbitrator Barbara Stiller denying Hermès' motion to dismiss.

21. Attached hereto as Exhibit S is a true and correct copy of Hermès' October 3, 2019 motion for reconsideration submitted to Arbitrator Stiller.

22. Attached hereto as Exhibit T is a true and correct copy of the October 11, 2019 letter-brief submitted by Swain in opposition to Hermès' motion for reconsideration.

23. Attached hereto as Exhibit U is a true and correct copy of the November 15, 2019 reply letter-brief Hermès submitted in further support of its motion for reconsideration.

24. Attached hereto as Exhibit V is a true and correct copy of "Plaintiff's Notice of Motion to Vacate the Arbitrator's Award and Reinstate His New Jersey Law Against Discrimination Complaint" and the supporting memorandum of law filed by Swain in New Jersey Superior Court, Essex County, on December 23, 2019.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
January 16, 2020

/s/ Lawrence R. Sandak
Lawrence R. Sandak